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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,002	12/15/2005	Joachim Haedicke	2002P00990W0US	8810

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BSH HOME APPLIANCES CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
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EXAMINER

ROST, ANDREW J

ART UNIT

PAPER NUMBER

3753

NOTIFICATION DATE

DELIVERY MODE

04/20/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/529,002

**Applicant(s)**

HAEDICKE ET AL.

**Examiner**

Andrew J. Rost

**Art Unit**

3753

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 14-18, 20, 22, 23 and 25-28.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/A. J. R./  
Examiner, Art Unit 3753

/John K. Fristoe Jr./  
Primary Examiner, Art Unit 3753

Continuation of 3. NOTE: The proposed amendments present additional claims (claims 29 and 30) without canceling a corresponding number of finally rejected claims. Additionally, the newly proposed claims (29 and 30) would raise new issues that would require further search and/or consideration (i.e., at least one of the magnetic anchor guide sections directly guides the magnetic anchor in claim 29 and the electromagnetic coil is mounted as a separate component on an outer circumference of the first magnetic anchor guide section in claim 30).

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' arguments filed 4/12/2010 are not persuasive. Applicants argue the rejection of claims 14, 15, 17, 18, 20, 23 and 26 under 35 U.S.C. 102(b) as being anticipated by Laurent (5,145,148) on page 8. It is considered that the mobile magnetic anchor is a combination of elements 20, 26, 54 and 56 (wherein elements 54 and 56 are both part of a pin 38). A portion of the element 54 is received within a depression of the element 20 (see figure 1) wherein element 56 is secured to the outer surface of the element 54. It is considered that the interaction between the outer surfaces of element 56 and the wall of the through-bore provides a guiding section. Additionally, the outer portion of the armature 20 that contains axially extending slots 48 provides a similar guiding section that guides the anchor along the surface of the element that armature is held within. The guiding sections provide a close fit relationship with the inner circumferential surfaces of the element the armature is supported and housing 12 such that the mobile magnetic anchor is able to slide and such that a fluid is premitted to flow through channels 48 and 68.

Applicants argue the rejection of claims 14-18, 20, 23 and 26 under 35 U.S.C. 103(a) as being unpatentable over Kolze et al. (4,697,608) in view of Brehm et al. (5,636,828) on pages 8-9. It appears these arguments were previously addressed in the Office action dated 1/22/2010. In response to applicants' argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicants' disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The Brehm et al. reference was relied upon to teach the placement of a sliding bearing (made of metal) in order to ensure that the lower region of the mobile magnetic anchor is guided properly.